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DEPARTMENT OF  
EDUCATION AND FINANCE  
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**CERTIFICATE OF CONSOLIDATION**

of  
**THE AMERICAN METAL COMPANY (LIMITED)**  
and  
**CLIMAX MOLYBDENUM COMPANY**  
into  
**THE AMERICAN METAL COMPANY (LIMITED)**  
(to be renamed **AMERICAN METAL CLIMAX, INC.**)

Pursuant to Section 91 of the New York Stock Corporation Law

THE AMERICAN METAL COMPANY (LIMITED), a New York corporation (hereinafter sometimes called "American Metal" and sometimes called the "consolidated corporation"), desiring to consolidate with Climax Molybdenum Company, a Delaware corporation (hereinafter sometimes called "Climax"), pursuant to Section 91 of the Stock Corporation Law of New York and to merge with Climax pursuant to Section 252 of Title 8 of the Delaware Code so as to form a single corporation which shall be American Metal, one of the constituent corporations, the president or a vice president and the secretary or an assistant secretary of American Metal and Climax (American Metal and Climax being herein sometimes collectively called the "constituent corporations") do hereby respectively certify as follows:

I. The names of the corporations to be included in the consolidation are The American Metal Company (Limited) and Climax Molybdenum Company. The date of the filing of the Certificate of Incorporation of American Metal in the Department of State of the State of New York was June 17, 1887. Climax was incorporated under the laws of the State of Delaware on January 17, 1918, and received a certificate of authority to do business in the State of New York on April 12, 1921.

II. The total number of shares which American Metal is authorized to issue is 10,133,269, of which shares 133,269 are Preferred Stock of the par value of \$100 each, and 10,000,000 are Common Stock without par value.

III. Upon the filing of this Certificate of Consolidation, the Certificate of Incorporation of the consolidated corporation shall be deemed amended to read as follows:

First: The name of the corporation shall be **AMERICAN METAL CLIMAX, INC.**

Second: The purposes of the corporation are as follows:

(1) To buy, sell, export, import and deal in all kinds of metals, metal oxides, metallic ores, earths and substances, industrial minerals and rocks and all kinds and grades of oil, petroleum, asphalt, bitumen, and bituminous substances of all kinds, carbon and hydro-carbon products and any and all elements, substances, constituents, products, by-products, compounds, blends and combinations thereof, and all kinds of chemicals, and to mine, mill, concentrate, convert, smelt, refine, treat, reduce, crystallize, extract, develop, gather by tram, tramways, pipe line or otherwise, prepare for market, or manufacture in any way, metallic ores, earths and rocks, including gold, silver, copper, molybdenum, lead, zinc, brass, tin, antimony, nickel, tungsten, and also industrial minerals and rocks, including potassium, sulphur and phosphorus, and their salts and compounds, all other kinds of ores, and to elements and minerals, metallic or non-metallic, and the products, by-products and

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alloys thereof of every kind and description, and any and all kinds and grades of oil and petroleum, asphalt, bitumen and bituminous substance of all kinds, carbon and hydro-carbon products and by-products, and all chemicals, elements, substances, constituents, products, by-products, compounds, blends and combinations thereof by the use of any and all processes, and to develop, improve, experiment with, and to conduct research with respect to any and all of the foregoing and to any and all inventions, processes, procedures, methods or formulae with respect thereto.

(2) To engage in any mining, manufacturing, extraction, development, mercantile or trading business of any kind or character whatever, and to do all things incidental to such business.

(3) In furtherance and not in limitation of the above stated purposes, the Company shall have the following further and additional powers

(a) As principal, agent, common merchant or consignee, to acquire, own, hold, use, lease, mortgage, pledge, sell, deal in, turn to account or otherwise dispose of, any and all real and personal property, rights and privileges suitable or convenient to any of the purposes or businesses of the Company within or without the United States, and to acquire by purchase or otherwise, own, hold, use, lease, mortgage, pledge, sell, deal in, turn to account or otherwise dispose of, erect, construct, make, alter, enlarge, improve, expedite, explore, manage, add or subscribe toward the construction of, acquisition of, or improvement of any mines, wells, lands, quarries, locations, claims, or any plants, factories, buildings, manufacturing and commercial establishments, of every character including any equipment, fixtures, machinery, pipe lines, trams, tramways, instruments and supplies necessary or incidental thereto or connected therewith.

(b) To acquire, hold, use, sell, assign, lease and grant licenses or sublicenses in respect of, pledge or otherwise dispose of, letters patent of the United States of America or any foreign country, patent rights, license rights, applications for patents, privileges, inventions, improvements, formulae, procedures, processes, labels, designs, brands, copyrights, trade marks and trade names relating to or useful in connection with any business of the Company

(c) To acquire all or any part of the good will, rights, property and business of any person, heretofore or hereafter engaged in any business similar to any business which the Company has power to conduct, to pay for the same in cash or in the securities of the Company or otherwise, to hold, utilize and in any manner dispose of the whole or any part of the rights and property so-acquired, and to assume in connection therewith any liabilities of any such person, and conduct in any lawful manner the whole or any part of the business thus acquired. The term "person" wherever it may be used in this Certificate of Incorporation in connection with the stating of the purposes of the Company shall include any person, partnership, firm, corporation, association or other business organization, domestic or foreign.

(d) To make, enter into and carry out any arrangements with any person or public authority, to obtain therefrom or otherwise to acquire by purchase, lease, assignment or otherwise any powers, rights, privileges, immunities, franchises, guaranties, grants and concessions; to acquire, hold, own, exercise, exploit, dispose of and realize upon the same, and to undertake and prosecute any business dependent thereon provided it is such a business as the Company may engage in; and to promote, cause to be formed and aid in any way any person for any such purpose. The term "public authority" wherever it may be used in this Certificate of Incorporation in connection with the stating of the purposes of the

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Company shall include any domestic or foreign governmental, municipal or other public authority.

(e) To enter into, make, perform and carry out or cancel and rescind contracts for any lawful purposes pertaining to its business with any person or public authority.

(f) To render advisory, investigatory, supervisory, managerial or other like services, permitted to corporations, in connection with the promotion, organization, operation, reorganization, recapitalization, liquidation, consolidation or merger of any corporation or in connection with the issuance, underwriting, sale or distribution of any securities issued in connection therewith or incident thereto.

(g) To conduct researches, investigations and examinations of businesses and enterprises of every kind and description with the purpose of securing information and particulars for the investment and employment of capital, and to undertake and transact all kinds of business relating to the gathering and distribution of financial and investment information and statistics.

(h) To enter into any lawful arrangements for sharing profits, union of interest, reciprocal concession or cooperation with any person or public authority, in the carrying on of any similar business which the Company is authorized to carry on, or any business or transaction deemed necessary, convenient or incidental to carrying out any of the purposes of the Company.

(i) To the extent suitable or necessary to carry out any of the purposes hereinbefore or hereinafter set forth, but only in so far as the same may be permitted to be done by a corporation organized under the Stock Corporation Law of New York, to buy, sell and deal in foreign exchange.

(j) To purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the shares of capital stock, bonds, securities or evidence of indebtedness of any corporation, domestic or foreign, and to pay therefor in whole or in part with cash or other property or by the issuance and delivery of the capital stock, bonds or other obligations of the Company, and to exercise in respect of any such shares of stock, bonds or other securities, any and all rights, powers and privileges of individual owners or holders.

(k) To make any guaranty respecting any securities so far as the same may be permitted to be done by a corporation organized under the Stock Corporation Law of the State of New York.

(l) To borrow or raise moneys for any of the purposes of the Company and from time to time, without limit as to amount, to draw, make, accept, endorse, execute and issue promissory notes, drafts, bonds, debentures and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment thereof and of the interest thereon by mortgage on, or pledge, conveyance or assignment in trust of, the whole or any part of the assets of the Company, real, personal or mixed, including contract rights and franchises, whether at the time owned or thereafter acquired, and to sell, pledge or otherwise dispose of such securities of the Company for its corporate purposes.

(m) To loan its uninvested funds and surplus within or outside the State of New York from time to time, to such extent as the Company deems advisable and as may be permitted by law, by deposit or by call or time loans, upon such security, if any, as the Board of Directors may determine.

(n) To purchase, hold, sell, transfer, issue or cancel the shares of its own capital stock or any securities of the Company in the market and to the extent

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now or hereafter permitted by the Stock Corporation Law of the State of New York; provided that the Company shall not use its funds or other assets for the purchase of its own shares of stock except as may be permitted by the Stock Corporation Law, and provided further that shares of its own capital stock belonging to the Company shall not be voted upon directly or indirectly

(o) To do any and all of the acts and things herein set forth, as principal, factor, agent, contractor, or otherwise, either alone or in company with others, and in general to carry on any other similar business which is incidental or conducive or convenient or proper to the attainment of the foregoing purposes or any of them, and which is not forbidden by law; and to exercise any and all powers which now or hereafter may be lawful for the Company to exercise under the laws of the State of New York; to establish and maintain offices and agencies within and anywhere outside of the State of New York; and to exercise all or any of its corporate powers and rights in the State of New York and in any and all other states, territories, districts, colonies, possessions or dependencies of the United States of America and in any foreign countries.

(p) To such extent as a corporation organized under the Stock Corporation Law of the State of New York may now or hereafter lawfully do, to do all and everything necessary, suitable, convenient or proper for, or incidental to, the accomplishment of any of the purposes or the attainment of any of the objects herein enumerated.

The foregoing paragraphs and subparagraphs shall be construed as powers as well as objects and purposes, and the matters expressed in each paragraph or subparagraph shall in no wise be limited by reference to or inference from the terms of any other paragraph or subparagraph; and the foregoing enumeration of specified objects, purposes and powers shall not be construed to limit or restrict in any manner the meaning of general terms or the general power of the Company; nor shall the expression of one thing be deemed to exclude another not expressed, although it be of like nature. Nothing herein contained shall be construed as giving the Company any rights, powers or privileges not now or hereafter permitted by the Stock Corporation Law of New York to corporations formed thereunder

THIRD: The amount of capital stock of the corporation shall be \$33,326,900 and shall consist of 133,269 shares of Preferred Stock of the par value of \$100 each and 20,000,000 shares of Common Stock of the par value of \$1 each.

The designations, preferences, privileges and voting powers of said classes of stock of the corporation and the restrictions and qualifications thereof are as follows:

(1)(a) The Preferred Stock may be issued from time to time by the Board of Directors as shares of one or more series of Preferred Stock, and to the extent that paragraph (b) hereof does not establish series of Preferred Stock and subject to subparagraph (i) of paragraph (a) of subdivision (8), the Board of Directors is expressly authorized, prior to issuance, in the resolution or resolutions providing for the issue of shares of each particular series, to fix the following:

(i) the distinctive serial designation of such series;

(ii) the annual dividend rate for such series, and the date from which dividends on all shares of such series issued prior to the record date for the first dividend shall be cumulative;

(iii) the redemption price or prices for such series, which may consist of a redemption price or scale of redemption prices applicable only to redemption for a sinking fund (which term as used herein shall include any fund or require-

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ment for the periodic retirement of shares), and a different redemption price or scale of redemption prices applicable to any other redemption;

(iv) the obligation, if any, of the Company to retire shares of such series pursuant to a sinking fund which shall be applied to the redemption of shares of such series to the extent funds have theretofore been set aside for such sinking fund before any other funds shall be applied to the redemption of shares of such series; and

(v) the terms, if any, upon which shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or classes, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any.

(b) There was established by Certificate of Increase of Number of Shares, Reclassification of Shares and Change of Statement Respecting Capital of the Company made on November 30, 1948 an initial series of Preferred Stock which consisted initially of 92,918 shares and which now consists of 76,187 shares, which number of shares may be increased, from time to time, by the Board of Directors in accordance with the authority contained in paragraph (a) hereof, and such initial series of Preferred Stock shall have the designations, preferences, privileges and voting powers, and the restrictions and qualifications which are set forth in this Certificate, and, in addition, the following:

(i) The distinctive serial designation of the initial series of Preferred Stock is 4 $\frac{3}{4}$ % Cumulative Preferred Stock.

(ii) The annual dividend rate for the 4 $\frac{3}{4}$ % Cumulative Preferred Stock is 4 $\frac{3}{4}$ % and the date from and after which dividends on the initial issue of shares of 4 $\frac{3}{4}$ % Cumulative Preferred Stock shall be cumulative is December 1, 1948, the date upon which the Certificate of Increase of Number of Shares, Reclassification of Shares and Change of Statement Respecting Capital of the Company, made on November 30, 1948, was filed in the office of the Secretary of State of the State of New York.

(iii) The redemption price of the 4 $\frac{3}{4}$ % Cumulative Preferred Stock is \$105 per share.

(iv) On or before December 31 of each calendar year commencing with 1949, until all of the 4 $\frac{3}{4}$ % Cumulative Preferred Stock shall have been retired, the Company shall, as and for a sinking fund, provided all dividends on the 4 $\frac{3}{4}$ % Cumulative Preferred Stock accrued for all past quarter-yearly dividend periods shall have been paid in full and the full dividends thereon for the then current quarter-yearly dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart, acquire out of funds legally available therefor, by purchase at not exceeding the redemption price of \$105 per share, or by redemption at the redemption price, as the Board of Directors may determine from time to time, 2% of the greatest number of shares of 4 $\frac{3}{4}$ % Cumulative Preferred Stock theretofore issued. If in any year the number of shares of 4 $\frac{3}{4}$ % Cumulative Preferred Stock acquired is less than a number equal to 2% of the greatest number of shares of 4 $\frac{3}{4}$ % Cumulative Preferred Stock theretofore issued, the deficiency shall be added to the sinking fund requirement for the succeeding year; and if in any year the number of shares acquired is greater than the number required to be acquired by this subparagraph, the excess number may at any time, at the option of the Board of Directors, be credited to the sinking fund requirement of any succeeding year or years as if they had been acquired in each succeeding year or years.

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None of the 4½% Cumulative Preferred Stock acquired by the Company and applied to sinking fund requirements shall be reissued, but all such shares shall be retired from time to time in the manner provided by law, and the authorized number of shares of capital stock of the Company reduced accordingly.

(v) The 4½% Cumulative Preferred Stock is not convertible.

(c) All shares of Preferred Stock shall be of equal rank with each other, regardless of series, and shall be identical with each other in all respects except as provided in paragraphs (a) and (b) of this subdivision (1), and the shares of the Preferred Stock of any one series shall be identical with each other in all respects except as to the dates from and after which dividends thereon shall be cumulative.

(d) In case the stated dividends and the amounts payable on liquidation are not paid in full, the shares of all series of Preferred Stock shall share ratably in the payment of dividends, including accumulations, if any, in accordance with the sums which would be payable on said shares if all dividends were declared and paid in full, and in any distribution of assets other than by way of dividends in accordance with the sums which would be payable on such distribution if all sums payable were discharged in full.

(2) The holders of Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors, but only out of surplus legally available for the payment of dividends, cumulative cash dividends at the annual rate for each particular series fixed herein or theretofore fixed by the Board of Directors as hereinbefore provided, and no more, payable quarter-yearly, on the first days of March, June, September and December in each year, to stockholders of record on the respective dates, not exceeding forty days preceding such dividend payment dates, fixed for the purpose by the Board of Directors in advance of payment of each particular dividend. Dividends on the Preferred Stock shall be payable before any dividends on any junior stock (which shall mean the Common Stock and any other class of stock of the Company hereafter authorized over which the Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any dissolution, liquidation or winding up of the Company) shall be paid or set apart for payment, and shall be cumulative from and after dates determined as follows.

(a) if issued prior to the record date for the first dividend on shares of such series, then from the date theretofore fixed by the Board of Directors as hereinabove provided,

(b) if issued during the period commencing immediately after a record date for a dividend on such series and ending on the payment date for such dividend, then from and after such dividend payment date; and

(c) otherwise from and after the first day of March, June, September, or December next preceding the date of issue of such shares.

provided, however, that dividends on the initially authorized shares of the 4½% Cumulative Preferred Stock shall be cumulative from the date fixed in paragraph (b) of subdivision (1). Any arrearages in the payment of dividends shall not bear interest.

(3) So long as any of the Preferred Stock remains outstanding, no dividend whatever shall be paid or declared, and no distribution made, on any junior stock, other than a dividend payable in junior stock, nor shall any shares of junior stock be acquired for a consideration by the Company or by any subsidiary.

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(a) unless all dividends on the Preferred Stock of all series accrued for all past quarter-yearly dividend periods shall have been paid and the full dividends thereon for the then current quarter-yearly dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart; and

(b) unless, if at any time the Company is obligated to retire shares of any series of the Preferred Stock pursuant to a sinking fund, all arrears in respect of the retirement of the Preferred Stock of all series shall have been made good; and

(c) unless, after giving effect to any such dividend or distribution on any junior stock or such acquisition of junior stock, the stated value of junior stocks of the Company and consolidated surplus as shown on a consolidated balance sheet of the Company and its subsidiaries shall be at least \$45,000,000. The term "subsidiary" when used in this statement of designations, preferences, privileges and voting powers means any corporation, association or business trust at least 80% of the shares of which at the time outstanding having voting power for the election of directors or trustees, either at all times or only so long as any senior class of stock has no such voting power because of default in dividends or some other default, is owned by the Company or any other subsidiary or subsidiaries. The consolidated balance sheet of the Company and its subsidiaries to be used in determining the stated value of junior stocks of the Company and consolidated surplus shall be as of a date within six months of the date upon which the dividend is to be declared, and shall give effect to the dividend or acquisition of junior stock for a consideration, and shall be prepared in accordance with good accounting practice.

Subject to the foregoing provisions, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors may be declared and paid on any junior stock from time to time out of the remaining surplus of the Company legally available therefor, and the Preferred Stock shall not be entitled to participate in any such dividends, whether payable in cash, stock or otherwise.

(4) Subject to the provisions herein with respect to the Preferred Stock, the Board of Directors shall have power from time to time to fix, determine and vary the amount of working capital of the Company and to direct and determine the use and disposition of any surplus of the Company over and above the capital of the Company, and to use the surplus of the Company for the purpose of acquiring any of the capital stock of the Company, and to reissue and sell any of the capital stock so acquired.

(5) Subject to the provisions of subdivision (6) hereof, the Company at the option of the Board of Directors (or for the purpose of any sinking fund) may redeem the whole or any part of the Preferred Stock at any time outstanding, or the whole or any part of any series thereof, at any time or from time to time, upon notice duly given as hereinafter specified, at the applicable redemption price or prices fixed herein or by the Board of Directors as hereinbefore provided, together with a sum, in the case of each share so to be redeemed, computed at the annual dividend rate for the series of which the particular share is a part, from and after the date on which dividends on such share became cumulative to and including the date fixed for such redemption, less the aggregate of the dividends theretofore and on such redemption date paid thereon, but computed without interest.

Notice of every such redemption of the Preferred Stock shall be given by publication at least once in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York; such publication to be at least thirty days

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prior to the date fixed for such redemption. Notice of every such redemption shall also be mailed at least thirty days prior to the date fixed for such redemption to the holders of record of the shares so to be redeemed at their respective addresses as the same shall appear on the books of the Company; but no failure to mail such notice nor any defect therein or in the mailing thereof shall affect the validity of the proceeding for the redemption of any shares so to be redeemed.

In case of redemption of a part only of any series of the Preferred Stock at the time outstanding, whether for sinking fund purposes or otherwise, the redemption may be either pro rata or by lot. The Board of Directors shall have full power and authority to prescribe the manner in which the drawings by lot or the pro rata redemption shall be conducted and, subject to the provisions herein contained, the terms and conditions upon which the Preferred Stock shall be redeemed from time to time.

If such notice of redemption shall have been duly given by publication, and if, on or before the redemption date specified therein, all funds necessary for such redemption shall have been set aside by the Company, separate and apart from its other funds, in trust for the pro rata benefit of the holders of the shares so called for redemption, so as to be and continue to be available therefor, then, notwithstanding that any certificate for shares so called for redemption shall not have been surrendered for cancellation, all shares so called for redemption shall no longer be deemed outstanding on and after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on redemption thereof, without interest.

If such notice of redemption shall have been duly given by publication or if the Company shall have given to the bank or trust company hereinafter referred to irrevocable authorization promptly to give or complete such notice by publication, and if on or before the redemption date specified therein the funds necessary for such redemption shall have been deposited by the Company with a bank or trust company in good standing, designated in such notice, organized under the laws of the United States of America or of the State of New York, doing business in the Borough of Manhattan, The City of New York, having a capital, surplus and undivided profits aggregating at least \$5,000,000 according to its last published statement of condition, in trust for the pro rata benefit of the holders of the shares so called for redemption, then, notwithstanding that any certificate for shares so called for redemption shall not have been surrendered for cancellation, from and after the time of such deposit all shares of the Preferred Stock so called for redemption shall no longer be deemed to be outstanding and all rights with respect to such shares shall forthwith cease and terminate, except only the right of the holders thereof to receive from such bank or trust company at any time after the time of such deposit the funds so deposited, without interest, and the right to exercise or, before the date fixed for redemption, privileges of exchange or conversion, if any, not theretofore expiring. Any interest accrued on such funds shall be paid to the Company from time to time.

Any funds so set aside or deposited by the Company which shall not be required for such redemption because of the exercise of any right of conversion or exchange subsequent to the date of such deposit shall be released or repaid to the Company forthwith. Any funds so set aside or deposited, as the case may be, and not so released or repaid at the end of six years from such redemption date, shall be released or repaid to the Company, after which the holders of the shares so called for redemption shall look only to the Company for payment thereof.

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Shares of Preferred Stock so redeemed shall not be reissued.

(6) If at any time the Company shall fail to pay dividends in full on the Preferred Stock, thereafter and until all accrued dividends shall have been paid or declared and funds set aside for their payment, the Company shall not redeem (for sinking fund or otherwise) less than all of the Preferred Stock at the time outstanding, and neither the Company nor any subsidiary shall purchase (for sinking fund or otherwise) less than all of the Preferred Stock unless such purchase shall be pursuant to tenders called for on at least twenty days previous notice by mail to the holders of record of the Preferred Stock at their respective addresses as the same shall appear on the books of the Company, and the shares so purchased shall be those tendered at the lowest prices, pursuant to such call for tenders.

(7) In the event of any voluntary liquidation, dissolution or winding up of the Company the holders of the Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, the respective amounts which such holders would have been entitled to receive had such shares been redeemed otherwise than for a sinking fund on the date fixed for payment. In the event of any involuntary liquidation, dissolution or winding up of the Company, the holders of the Preferred Stock then outstanding shall be entitled to receive out of the assets of the Company, before any distribution or payment shall be made to the holders of any junior stock, an amount equal to \$100 per share, plus in respect of each such share a sum computed at the annual dividend rate for the series of which such share is a part from and after the date on which dividends on such share became cumulative to and including the date fixed for such payment, less the aggregate of dividends theretofore paid thereon, but computed without interest. If such payment shall have been made in full to the holders of the Preferred Stock on voluntary or involuntary liquidation, dissolution or winding up, the remaining assets of the Company shall be distributed among the holders of any junior stock in accordance with the applicable provisions of the Certificate of Incorporation, but pro rata within a class according to their respective holdings of shares of each class of junior stock. For the purposes of this subdivision (7), a consolidation or merger of the Company with any other corporation shall not be deemed to constitute a liquidation, dissolution or winding up of the Company.

(8) Except as provided in this subdivision (8) or elsewhere in the Certificate of Incorporation or by statute, all voting rights in the Company shall be vested exclusively in the holders of the Common Stock who shall be entitled to one vote for each share of Common Stock, and the holders of the Preferred Stock shall have no right to vote at, or to participate in, any meeting of the stockholders of the Company or receive any notice of such meeting, and all shares of Preferred Stock are excluded from the right to vote in any proceeding for authorizing a mortgage of property and franchises pursuant to Section 16, a guaranty pursuant to Section 19, a sale of franchises and property pursuant to Section 20, a consolidation pursuant to Section 86 or Section 91, or a voluntary dissolution pursuant to Section 105 of the Stock Corporation Law, or a change of name pursuant to the General Corporation Law of the State of New York. The Preferred Stock, however, shall be entitled to vote as follows:

(a) The consent of the holders of at least two-thirds of the Preferred Stock at the time outstanding, given in person or by proxy, either in writing without a meeting (if permitted by law) or at a special meeting called for the purpose, at which the Preferred Stock shall vote separately as a class, shall be required to effect or validate any one or more of the following:

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(i) The creation or authorization of any class of stock having any preference or priority over, or being on a parity with, the Preferred Stock, or the authorization of any increase in the authorized amount of the Preferred Stock, or the creation or authorization of any obligation or security convertible into or evidencing the right to purchase any stock having any preference or priority over, or being on a parity with, the Preferred Stock.

(ii) The issue of any shares of Preferred Stock in excess of the initially authorized 92,918 shares of 4 $\frac{1}{2}$ % Cumulative Preferred Stock unless, after giving effect to such issue, (a) the consolidated net tangible assets of the Company and its subsidiaries (as defined in paragraph (c) of subdivision (3)) including any assets acquired in connection with the issue of such shares, shall be equal to at least 2 $\frac{1}{2}$  times the sum of all outstanding consolidated funded debt of the Company and its subsidiaries and the par value of all Preferred Stock then issued and outstanding, including the Preferred Stock then proposed to be issued, and (b) the earnings available for dividends on the Preferred Stock in any two of the preceding three years shall have averaged not less than three times the annual dividend requirements of all Preferred Stock then issued and outstanding and proposed to be issued. For the purpose of this subparagraph a consolidated balance sheet of the Company and its subsidiaries, as of a date within six months of the date upon which it is planned to issue the additional Preferred Stock, but after giving effect to such issue, prepared in accordance with good accounting practice shall be used. Consolidated net tangible assets shall be computed by subtracting from consolidated tangible assets all consolidated liabilities less consolidated funded debt, as such terms are hereafter defined. On this balance sheet investments (including stock and accounts receivable) in corporations in which the Company owns more than 20% but less than 80% of the outstanding shares of stock having voting power for the election of directors, either at all times or only so long as no senior class of stock has such voting power because of default of dividends or some other default, shall be included as assets in amounts no greater than the net tangible assets of such corporations based upon the latest financial statements available to their respective stockholders after deduction of any funded debt; and stock of other corporations owned by the Company shall be included as assets at the lower of cost or market, or in the absence of market at the lower of cost or net asset value based upon the latest financial statements available to their respective stockholders. Tangible assets shall include all assets (less depreciation reserves, valuation reserves, and other reserves and items deductible directly from assets under good accounting practice), including investments in other corporations, appearing on the asset side of said balance sheet, but shall exclude treasury stock, good will, unamortized debt discount and expense, patents, trademarks, and similar intangible assets. Liabilities shall include all liabilities except funded debt appearing on the liability side of said balance sheet but shall exclude capital stock, surplus and reserves representing segregation from surplus. Funded debt shall mean all indebtedness owed by the Company and its subsidiaries, after elimination of inter-company items, which by its terms matures more than one year from the date as of which the amount of funded debt is being determined without regard to any option to extend maturity in the second year.

(iii) The creation of a mortgage, lien or encumbrance of any kind upon any part of the real or personal property or franchises of the Company or any subsidiary (as defined in paragraph (c) of subdivision (3)), but this

consent by the holders of Preferred Stock shall not be deemed or construed to apply to, nor operate to affect:

(a) The giving of purchase money mortgages or other purchase money liens up to 80% of the purchase price of property which may hereafter be acquired by the Company or by any subsidiary; or

(b) The acquisition of property by the Company or by any subsidiary subject to any mortgages, liens or encumbrances thereon then existing, or

(c) The renewal of any mortgage or any encumbrance or the placing of any such mortgage or any other encumbrance now existing in an amount not greater than the amount secured by such mortgage or other encumbrance sought to be renewed or replaced; or

(d) The pledge by the Company or by any subsidiary, as security for loans made to the Company or any subsidiary or as security for the performance of leases or contracts made by the Company or by any subsidiary in the regular and current conduct of business, of notes, accounts receivable, ore or smelter warrants or certificates, merchandise or other liquid assets or any stocks, bonds or other securities owned by the pledgor other than shares or securities of any subsidiary; or

(e) The creation of liens for taxes paid before they become delinquent, or existing pending any contest to the extent that such taxes shall be contested in good faith; or the creation of liens or pledges in connection with any workmen's compensation, unemployment or war damage insurance or other similar obligations, or mechanic's liens or similar charges, or

(f) The guaranty by the Company or by any subsidiary of any mortgage or other encumbrance now or hereafter existing on, or any obligation affecting any property now owned or hereafter acquired by the Company or by any subsidiary, provided that such mortgage or other encumbrance is such as is permitted in accordance with the terms of the preceding provisions of this subparagraph (iii).

(iv) The sale of all or substantially all of the assets of the Company, or the consolidation or merger of the Company with or into any other corporation, unless the corporation resulting from such merger or consolidation shall have thereafter no class of stock, either authorized or outstanding, ranking prior to or on a parity with shares corresponding to the Preferred Stock, except the same number of shares with no greater rights and preferences than the shares of Preferred Stock authorized and outstanding immediately preceding such consolidation or merger, and unless each holder of Preferred Stock immediately preceding such consolidation or merger shall receive the same number of shares, with substantially the same rights and preferences of the resulting corporation, provided, however, that the resulting corporation may have authorized and outstanding such additional shares of stock having preferences or priorities over or being on a parity with the Preferred Stock as the holders of Preferred Stock of the Company may have previously authorized pursuant to the terms of the Company's Certificate of Incorporation; and provided, further, that this requirement of consent by the holders of Preferred Stock shall not be deemed to apply to or operate to prevent either the purchase by the Company of the assets or stock, in whole or in part, of any other corporation, or the sale by the Company or any subsidiary of all or part of the capital stock or assets of other corporations, including a subsidiary, or the sale of a division or divisions of the Company or of any subsidiary, or any

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other sale of property or assets which constitutes less than substantially all of the property or assets of the Company.

(v) The consolidation or merger of any subsidiary (as defined in paragraph (c) of subdivision (3)) into any other corporation except the Company or another subsidiary

(vi) The amendment, alteration or repeal of any provision of the Certificate of Incorporation of the Company, as amended, in a manner so as to effect one or more of the purposes set forth in Paragraphs (B), (D), (E) or (F) of Section 36 of the Stock Corporation Law, when the effect of such amendment, alteration or repeal is to adversely affect the holders of Preferred Stock.

Provided, however, that no vote of the Preferred Stock shall be required under the provisions of paragraph (a) of this subdivision (8), if at or prior to the time when the act, with respect to which such vote would otherwise be required, shall be effected, provision is to be made in accordance with the provisions of the fifth paragraph of subdivision (5) for the redemption of all shares of Preferred Stock at the time outstanding.

(b) In the event that four quarterly dividends (whether or not consecutive) payable on the Preferred Stock of any series shall be in default, in whole or in part, the holders of the outstanding Preferred Stock shall be entitled to notice of the next annual meeting of stockholders, and at such meeting, voting separately as a class regardless of series, each share of Preferred Stock having one vote, shall be entitled to elect one director of the class of directors then being elected, and, in the event such default continues to exist at the next succeeding annual meeting, the holders of the outstanding Preferred Stock shall be entitled in like manner to elect one director of the class of directors being elected at such meeting, and in the event that such default continues to exist at the second succeeding annual meeting, the holders of the outstanding Preferred Stock shall be entitled in like manner to elect one director of the class of directors being elected at such meeting, the Preferred Stock thus, in the event of such default, being entitled to elect a total of three directors, each to hold office for a term of three years or until his successor is elected and qualifies; provided, however, that each person elected a director by the holders of Preferred Stock shall, as a condition to his qualification as a director of the Company, submit to the Board of Directors his written resignation effective if and when all dividends in default on the Preferred Stock shall be paid in full. If, after any such default in the payment of dividends on Preferred Stock, all such dividends in default shall be paid in full, the Preferred Stock shall then be divested of its right to elect directors, subject to the reversion of same in the event of any similar future default or defaults. Upon the payment in full of all dividends then in default on the Preferred Stock, the directors of the Company, exclusive of those elected by the Preferred Stock, may by a majority vote accept the aforesaid resignations of the directors elected by the Preferred Stock, and thereupon elect in the place and stead of such directors new directors to fulfill the unexpired terms of such resigning directors.

If at any time when the holders of Preferred Stock are represented by only one director on the Board of Directors, and for any reason other than acceptance of the aforesaid resignation of such director, the office of such director becomes vacant, the remaining directors shall not be entitled to elect a successor, but instead, such vacancy shall be filled at the next annual meeting of stockholders by the holders of Preferred Stock, voting separately as a class. If after the holders of Preferred Stock are represented by more than one director on the Board of Directors, any vacancy occurs among the directors elected by the

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holders of Preferred Stock, other than as a result of acceptance of the aforesaid resignations, the remaining director or directors elected by the Preferred Stock shall be entitled to nominate for election by the Board of Directors a successor-director to hold office for the unexpired term of the director whose position has become vacant. If the vacancy is not so filled prior to the next succeeding annual meeting of stockholders, it may be filled at such meeting by the holders of Preferred Stock, voting separately as a class.

(9) No holder of Preferred Stock shall be entitled as such, as a matter of right, to subscribe for or purchase any part of any new or additional issue of stock of any class whatsoever, or of securities convertible into any stock of any class whatsoever, whether now or hereafter authorized and whether issued for cash or other consideration or by way of dividend.

FOURTH The location of the principal business office of the corporation shall be the City, County and State of New York. The Secretary of State of the State of New York is designated as the agent of the corporation upon whom process in any action or proceeding against it may be served within the State of New York, and the address to which the Secretary of State shall mail a copy of any process against the corporation which may be served upon him pursuant to law is 61 Broadway, New York 6, N. Y.

FIFTH The existence of the corporation is to be perpetual.

SIXTH The number of Directors of the Corporation shall be not less than fifteen nor more than twenty-one, with the precise number determined in the manner prescribed by the By-Laws, divided into three classes as nearly equal in number as practicable so that the term of office of one class of Directors will expire each year. This classification of Directors shall not be changed and the number of Directors shall not be decreased below fifteen except by the vote of at least 90% in amount of the outstanding shares entitled to vote thereon.

At each Annual Meeting of Stockholders the successors of the class of Directors whose term shall expire in that year shall be elected for a term of three years and until their respective successors are elected and qualify. If the number of Directors be increased within the limits above set forth, the additional Directors may be elected by a majority of the Directors in office at the time of the increase, or, if not so elected prior to the next Annual Meeting of Stockholders, or if the By-Laws so provide, they shall be elected by vote of the stockholders. Other vacancies in the Board of Directors shall be filled in the manner prescribed in the By-Laws. Directors chosen to fill such vacancies shall hold office for the unexpired term of the Director with respect to whom the vacancy occurred or until their successors shall be duly elected and qualify.

Directors need not be stockholders.

IV. The terms and conditions of the consolidation, the mode of carrying the same into effect, and the manner of converting the shares of each of the constituent corporations into shares of the consolidated corporation are as follows:

(a) The consolidated corporation is to be American Metal, one of the constituent corporations and not a new corporation, and the name of said surviving constituent corporation is to be AMERICAN METAL QIMAX, INC.

(b) On the effective date of the consolidation, each of the 76,187 shares of 4% Cumulative Preferred Stock of the par value of \$100 per share of American Metal (this being the only established series of its Preferred Stock), of which 65,146 shares are issued and outstanding and 11,041 shares have been issued and reacquired by American Metal and are held in its treasury, shall continue to be one share of 4% Cumulative Preferred Stock of the par value of \$100 per share of the consolidated corporation.

(c) On the effective date of the consolidation, each share of Common Stock without par value of American Metal which shall be issued and outstanding shall become one share of Common Stock of the par value of \$1 per share of the consolidated corporation; each share of Common Stock of American Metal which has been issued and reacquired by American Metal and is held in its treasury shall be eliminated. The certificates representing shares of Common Stock without par value of American Metal shall thereafter represent the same number of shares of Common Stock of the par value of \$1 per share of the consolidated corporation, but holders may exchange such certificates for new certificates of the consolidated corporation.

(d) On the effective date of the consolidation, each share of Common Stock without par value of Climax which shall be issued and outstanding and not owned by American Metal shall be converted into three shares of Common Stock of the par value of \$1 per share of the consolidated corporation.

(e) After the effective date of the consolidation, each holder of an outstanding certificate or certificates theretofore representing the Common Stock of Climax may surrender the same to the consolidated corporation, and such holder shall be entitled upon such surrender to receive a certificate or certificates representing the number of shares of Common Stock of the consolidated corporation into which the shares of Common Stock of Climax theretofore represented by the certificate or certificates so surrendered shall have been converted as aforesaid. Until so surrendered, each outstanding certificate which, prior to the effective date of the consolidation, represented shares of Common Stock of Climax shall be deemed for all corporate purposes to evidence ownership of the shares of Common Stock of the consolidated corporation into which the same shall have been so converted.

(f) On the effective date of the consolidation, each issued and outstanding share of Common Stock without par value of Climax which shall be owned by American Metal shall be cancelled and all rights in respect thereof shall cease.

(g) On the effective date of the consolidation each then outstanding option to purchase shares of Common Stock without par value of American Metal shall become an option to purchase the same number of shares of Common Stock of the par value of \$1 per share of the consolidated corporation upon the terms and conditions and for the price set forth in such option, and each then outstanding option to purchase Common Stock without par value of Climax shall be converted into an option to purchase a number of shares of Common Stock of the par value of \$1 per share of the consolidated corporation determined by multiplying the number of shares of Common Stock of Climax which may be purchased under such option by three at a price per share determined by dividing the price per share at which shares of Common Stock of Climax may be purchased pursuant to such option by three, and upon terms and conditions as fixed by the Board of Directors of the consolidated corporation substantially similar to those contained in such option to purchase Common Stock of Climax.

V. On the effective date of the consolidation, all of the estate, property, rights, privileges, powers, franchises and interests of Climax and all of its property, real, personal and mixed, and all the debts due on whatever account to it as well as all subscriptions and other choses in action belonging to it, shall be vested, and those of American Metal shall continue to be vested, in the consolidated corporation, without further act or deed; and all claims, demands, property and every other interest shall be as effectually the property of the consolidated corporation as they were of the constituent corporations, and the title of all real estate vested in either of the constituent corporations shall not be deemed to revert or to be in any way impaired by reason of the consolidation, but shall be vested in the

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consolidated corporation. None of the provisions contained in the Certificate of Incorporation of Climax, as amended, shall apply to the consolidated corporation.

In WITNESS WHEREOF, this Certificate of Consolidation has been subscribed by the President or a Vice President and the Secretary or an Assistant Secretary of each of the constituent corporations this 30th day of December, 1957.

*Francis A. Pyburn*  
.....  
President,

THE AMERICAN METAL COMPANY (LIMITED)

*Donald Neil*  
.....  
Secretary,

THE AMERICAN METAL COMPANY (LIMITED)

*Arthur H. Dunham*  
.....  
President,

CLIMAX MOLYBDENUM COMPANY

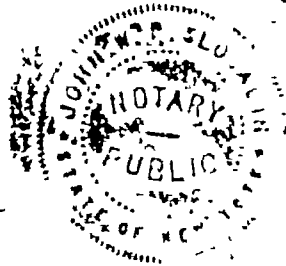
*John M. Brown*  
.....  
Secretary,

CLIMAX MOLYBDENUM COMPANY

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STATE OF NEW YORK } ss.  
COUNTY OF NEW YORK }

On this 30th day of December, 1957, before me personally came HANS A. VOGELSTEIN and  
ERWIN A. WEIL, to me known and known to me to be the persons described in and who sub-  
scribed the foregoing certificate and they duly acknowledged to me that they subscribed the same.



..... *John W. P. Slobaden*  
Notary Public

JOHN W. P. SLOBADEN  
NOTARY PUBLIC, State of New York  
Residing in Bronx County  
Bronx Co. Clerk's No. 03-3707300  
Certificates Filed in  
New York, Elgin, Queens, Nassau,  
Richmond, Westchester & Suffolk Co. Clerk's  
Commission Expires March 30, 1959

STATE OF NEW YORK } ss.  
COUNTY OF NEW YORK }

On this 30th day of December, 1957, before me personally came ARTHUR H. BUNKER and  
LESTER A. COWAN, to me known and known to me to be the persons described in and who sub-  
scribed the foregoing certificate and they duly acknowledged to me that they subscribed the same.



..... *John W. P. Slobaden*  
Notary Public

JOHN W. P. SLOBADEN  
NOTARY PUBLIC, State of New York  
Residing in Bronx County  
Bronx Co. Clerk's No. 03-3707300  
Certificates Filed in  
New York, Elgin, Queens, Nassau,  
Richmond, Westchester & Suffolk Co. Clerk's  
Commission Expires March 30, 1959

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STATE OF NEW YORK } ss.  
COUNTY OF NEW YORK }

HANS A. VOGELSTEIN and ERWIN A. WEIL, being duly and severally sworn, each for himself deposes and says that the said HANS A. VOGELSTEIN is President and the said ERWIN A. WEIL is Secretary of THE AMERICAN METAL COMPANY (LIMITED), one of the constituent corporations named in the foregoing certificate, and that they have been authorized to execute and file the foregoing certificate by the votes cast in person or by proxy of the holders of record of two-thirds of the outstanding shares of said corporation entitled to vote thereon, and that such votes were cast at a stockholders' meeting held upon notice as prescribed in Section 45 of the Stock Corporation Law and that such meeting was held on the 30th day of December, 1957

*Hans A. Vogelstein*  
President

*Erwin A. Weil*  
Secretary

Subscribed and sworn to before me this  
30th day of December, 1957

*J. W. P. Shoben*  
Notary Public

JOHN W. P. SHOBDEN  
NOTARY PUBLIC State of New York  
Residing in Bronx County  
New York Co. CL# No. 03-3707300  
Certificates Filed in  
New York, Kings, Queens, Richmond,  
Westchester & Dutchess Co. CL#s  
Commission Expires March 30, 1960

STATE OF NEW YORK } ss.  
COUNTY OF NEW YORK }

ARTHUR H. BUNKER and LESTER A. COWAN, being duly sworn, each for himself deposes and says that the said ARTHUR H. BUNKER is President and the said LESTER A. COWAN is Secretary of CLIMAX MOLYBDENUM COMPANY, one of the constituent corporations named in the foregoing certificate, and that they have been authorized to execute and file the foregoing certificate by the votes cast in person or by proxy of the holders of record of two-thirds of the outstanding shares of the corporation entitled to vote thereon, and that such votes were cast at a stockholders' meeting held in compliance with the laws of the State of Delaware, under which said corporation was organized, and that such meeting was held on the 30th day of December, 1957.

*Arthur H. Bunker*  
President

*Lester A. Cowan*  
Secretary

Subscribed and sworn to before me this  
30th day of December, 1957

*J. W. P. Shoben*  
Notary Public

JOHN W. P. SHOBDEN  
NOTARY PUBLIC State of New York  
Residing in Bronx County  
New York Co. CL# No. 03-3707300  
Certificates Filed in  
New York, Kings, Queens, Richmond,  
Westchester & Dutchess Co. CL#s  
Commission Expires March 30, 1960

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